

UNCLASSIFIED

Current Class: [REDACTED]
Current Handling: n/a
Document Number: 1977BUENOS02931

4/20/77

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Channel: n/a

Case Number: 200000044

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ACTION ARA-10

INFO OCT-01 ISO-00 DHA-02 L-03 H-01 SCS-03 SCA-01
IO-13 CIAE-00 DODE-00 INR-07 NSAE-00 PA-01
USIA-06 PRS-01 SP-02 /051 W

R 202125Z APR 77
FM AMEMBASSY BUENOS AIRES
TO SECSTATE WASHDC 0133

[REDACTED] BUENOS AIRES 2931

E.O. 11652: N/A
TAGS: PINS, SHUM, AR

SUBJECT: SUPREME COURT ACTS ON PETITION ON DISAPPEARANCE CASES

REF: BUENOS AIRES 2744

-----210449Z 032803 /22
ARGENTINA PROJECT (S2000000044)
U.S. DEPT. OF STATE, A/RPS/IPS
Margaret P. Grafeld, Director
(X) Release () Excise () Deny
Exemption(s): DISCONTROL
Declassify: () In Part (X) In Full
() Classify as () Extend as () Downgrade to
Date _____ Declassify on _____ Reason _____

DECONTROL

1. THE SUPREME COURT ANNOUNCED (APR 19) THAT IT WILL ASK THE EXECUTIVE BRANCH TO INTENSIFY ITS INVESTIGATION INTO THE DISAPPEARANCE OF 425 PERSONS NAMED IN A GROUP PETITION PRESENTED TO THE COURT LAST WEEK. THE PETITION ASKED THAT THE COURT INVESTIGATE THE FAILURE OF HABEAS CORPUS WRITS TO PROVIDE INFORMATION ON THE STATUS AND WHEREABOUTS OF PERSONS WHO DISAPPEARED AFTER BEING DETAINED BY PERSONS CLAIMING TO BE SECURITY FORCES. ALTHOUGH THE COURT REITERATED ITS POSITION THAT IT DOES NOT HAVE JURISDICTION IN INDIVIDUAL HABEAS CORPUS REQUESTS (SUCH AS IN THE LEVITAN PETITION CASE), IT SAID IT WOULD URGE THE EXECUTIVE TO PRESS THE INVESTIGATIONS IN ORDER FOR JUDGES TO BE "IN CONDITION TO CARRY OUT THEIR CONSTITUTIONAL DUTY, RESOLVING, WITH THE NECESSARY EFFECTIVENESS THAT THE LAW DEMANDS, THE CASES WHICH COME UP BEFORE THEIR COURTS TO SAFEGUARD INDIVIDUAL LIBERTY AND EVENTUAL RESPONSIBILITIES IN CASE OF CRIME." THE COURT DECLARED IT HAD THE DUTY AND AUTHORITY TO HEAR APPEALS MADE TO IT AND TO GUARANTEE THE EFFICIENCY OF THE JUDICIAL FUNCTION, PARTICULARLY IN RELATION TO CONSTITUTIONAL RIGHTS AND GUARANTEES, AND RESERVED FOR ITSELF

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THE RIGHT TO RE-EXAMINE THE ISSUES PRESENTED BY THE PETITION AT

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A LATER DATE IF DETERMINED NECESSARY.

2. COMMENT: THE COURT'S RESPONSE, WHICH SKIRTED THE PETITIONERS' REQUEST THAT THE COURT CONDUCT ITS OWN INVESTIGATION INTO THE DISAPPEARANCE CASES AND THE EXECUTIVE BRANCH'S UNSATISFACTORY REPLIES TO HABEAS CORPUS WRITS, WAS NOT UNEXPECTED BY THE AUTHORS OF THE PETITION. TWO OF THE EIGHT LAWYER SIGNATORIES HAD PRE-DICTED TO EMBOFFS THAT COURT WOULD TAKE THE INTERMEDIATE STEP OF URGING THE EXECUTIVE TO RESOLVE THE DISAPPEARANCE CASES OF THE 425 PERSONS NAMED RATHER THAN DIRECTLY CONFRONT THE EXECUTIVE ON THE ISSUE OF DISAPPEARANCES AND FAULTY HABEAS CORPUS REPLIES. SOURCE TOLD EMBOFF THAT COURT JUDGES ARE UNDER CONSIDERABLE PRESSURE FROM ACQUAINTANCES AND COLLEAGUES TO TAKE ACTION ON BEHALF OF DISAPPEARED PERSONS. ANNOUNCING THAT IT RESERVES THE RIGHT TO RE-EXAMINE THE QUESTION SIGNALS THAT THE COURT INTENDS TO ASSESS THE EXECUTIVE'S RESPONSE TO ITS REQUEST FOR AN INTENSIFICATION OF THE INVESTIGATIONS BEFORE DETERMINING ITS FINAL POSITION VIS-A-VIS THE EXECUTIVE ON DISAPPEARANCE CASES AND WRITS OF HABEAS CORPUS. HILL

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